

DETAILED ACTION

1. This action is in response to the communication filed on 07/29/2009.

Claims 1, 4-7, 11-16, 19, 25-29, 42-46, 50, 52-55, 59 and 61 are pending in the application.

Response to Arguments

2. This is in response to the amendment and the arguments in remarks filed on 07/27/2009. The record has shown the Applicants and Examiner had held interviews for more than three times.

As viewed through the claimed amendment, it includes five different methods; the methods are related to the installation of a new operating system in a computer. Applicants argued that the rejection statements in Examiner's office action are mere allegations. For example, they depict the Examiner's statement on claiming "status report". Applicants treated this statement as to an Examiner's official notice, and they asserted the rejection had failed as a proper rejection.

Examiner's response: Examiner would like to address that the Applicants' points are only true for the elements in the claims that present patentable features. The recitations, "generating a first status" does not do anything in the claims; it is included without causing any expected result for a process of installation. It is only a choice such as generating second report, third report,

etc... As known in computer activities, many reports in various purposes have been docked in computer's user everyday. Moreover, generating status reports can be achieved under log file of a computer in which it captures what events/errors encounter during a running. Therefore, using the "first, second, or third and so on, will not make "report" as a new invention in a running process unless in the generation its elements in the report are used for the installation. Thus, it is no need for an official notice that requires a prior art as per applicant's request. In MPEP, and cases of law, "[E]x parte Rubin, 128 USPQ 440 (Bd. App. 1959) (Prior art reference disclosing a process of making a laminated sheet wherein a base sheet is first coated with a metallic film and thereafter impregnated with a thermosetting material was held to render prima facie obvious claims directed to a process of making a laminated sheet by reversing the order of the prior art process steps.). See also In re Burhans, 154 F.2d 690, 69 USPQ 330 (CCPA 1946) (selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results); In re Gibson, 39 F.2d 975, 5 USPQ 230 (CCPA 1930) (Selection of any order of mixing ingredients is prima facie obvious.)".

Regarding the newly amending limitation,

wherein the new operating system and pre-installation environment are deployed at a same time to the target computer as components of an image deployment package.

It appears this limitation considers the software of *operating system and pre-installation environment* is sent to the computer in the same time. As mentioned, whether the two files sent to the client computer at the same time or different time does not cause any effect but a mere choice. In the network, send files in a package must be the same time; on the other hand, sending

files separately must be before or after; it is only depending on the choice. For example, sending a service pack will include a new operating system and application configuration settings at the same time. See TechNet:

Remote Installation Preparation Wizard

Note: See the "Remote OS Installation Usage Scenarios" section later in this document for details on how to combine the Windows 2000 Group Policy and Software Installation and Maintenance features with Remote OS Installation to create standard desktop images that include applications. There are two types of operating system images supported by Remote OS Installation: CD-based images and RIPrep images. The CD-based option is similar to setting up a client operating system directly from the Windows 2000 Professional CD, but in this case, the source files reside on an RIS server. However, more companies are beginning to implement a corporate standard desktop policy. This policy requires that users install only approved versions of an operating system and associated applications or application suites. These desktop standards have a variety of names, such as Standard or Common Operating Environments (SOEs or COEs), but all usually involve packaging the operating system, required service packs, a set of applications, and appropriate operating system and application configuration settings into a single, tested, and supported unit.

The claims are merely the installation of new operating system in a computer. The installation shows it is only with compliant steps. An amendment of claims will be allowed if Applicants can rearrange the methods of independent claims in a single claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-7, 11-16, 19, 59 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over TechNet, "Remote Operating System Installation", 1999 (print version – 28 pages), in view of Computing.net, "Installing a New Operating System", 2002,

<http://www.computing.net/answers/windows-me/installing-a-new-operating-system/17954.html>.

As per claims 1: TechNet discloses a method comprising

capturing data or state for migration to a new operating system and storing the data or state at a remote network location;

See p. 1, a Remote Installation Services Setup Wizard prepares data or state will be captured at a remote network when user clicks "Done". See p. 13, a client receives images, configuration setting data.

first installing a pre-installation environment (start p. 12, remote installation preparation Wizard) on a target computer that is desired to be imaged with the new operating system, the pre-installation environment comprising a subset of an operating system, wherein the act of installing the pre-installation environment comprises installing the pre-installation environment in a same disk partition as an old operating system;

i.e. the Wizard, or see p. 3, i.e. PXE based remote boot-enabled and /or a pre-configured Remote Installation Preparation (RIPrep) desktop image, and see p. 6, remote installation Services setup, and see start p. 12, remote installation preparation Wizard

In response to the capturing and first installing, generating a first status report by an old client associated with the old operating system;

re-booting the target computer wherein rebooting the target computer activates the pre-installation environment on the target computer;

See p.5, #1, and see p. 11, the running of PXE causing pre-boot. See p. 14, using Windows 2000 Remote Boot Disk Generator.

deleting an old operating system from within the pre-installation environment (See p.5, #5)

second installing the new operating system from within the pre-installation environment, wherein the new operating system is deployed in the same disk partition as the old operating system, whereby non-operating system data on the disk is preserved; [Computing.net: p.2: #2,3,3,4, and patricianly #5]; *and*

re-booting the target computer in the new operating system (p. 3-4); and migrating the data or state stored in the network location to the new operating system; (See TechNet: the installation of OS into the client computer: p. 20, i.e. computer restarts after remotely installing the OS, Windows Installer realizes that the software is already on the machine [On the other hand, Computing.net teaches the limitation as using #8])

in response to the deleting, second installing, and migrating, generating a second status report by a new client associated with the new operating system,

wherein the new operating system and pre-installation environment are deployed at a same time to the target computer as components of an image deployment package.

TechNet shows an administrator can set up pre-stage to a client or a customization of installation, where the Windows 2000 professional used to install in a computer and Wizard that is used for preparing are available at a target computer at the time of installation, as it is in a service pack. See start at p. 12, Remote Installation Preparation Wizard, and see “To pre-stage a client computer”; particularly, see Scenario 4, start at p. 21.

When perform rebooting, TechNet does not mention “old operating system”.

However, Computing.net teaches a formal way of New Operating System is installed over an old operating system in the same partition [Window ME (old) Windows 98 (new)]. Old operating system is deleted by #5 as being done from formatting C. Computing.net, an analogous art, shows before installing a new operating system over an existing operating system, a reboot computer is required with a bootdisk, but it causes losing existing operating system because of formatting. Computer.net shows non-related data should be saved in a backup before installation and restore after the installation’s completion (See Name jFrOg, posted date January 4, 2002),

Therefore, it is obvious to an ordinary in the art to combine Computing.net for the suggestion of “New Operating System” for conforming to a standard way when people want installing any software.

As per claim 4: The method of claim 1 wherein the data or state includes machine data (See TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured at a remote network when user click “Done”. See p. 13, a client receives images, configuration setting data).

As per claim 5: *The method of claim 1 wherein the data or state includes user data* (See TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured at a remote network when user click “Done”. See p. 13, a client receives images, configuration setting data).

As per claim 6: *The method of claim 1 wherein the data or state includes user state* (See TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured at a remote network when user click “Done”. See p. 13, a client receives images, configuration setting data).

As per claim 7: *The method of claim 1 wherein the data or state includes client data* (See TechNet, p. 1, a Remote Installation Services Setup Wizard shows data or state will be captured at a remote network when user click “Done”. See p. 13, a client receives images, configuration setting data).

As per Claim 11: Regarding the limitations recited in the claim, the rejection is the same as addressed in the rejection of claim 1. See rationale addressed in the claim 1.

As per claim 12: TechNet further discloses, *wherein the preparation phase can capture data associated with one or more of machine state, client state, user state and/or user data* (See p. 1, a Remote Installation Services Setup Wizard prepares data or state will be captured at a remote network when user click “Done”. See p. 13, a client receives images, configuration setting data).

As per claim 13: TechNet further discloses *wherein machine state data can comprise one or more of computer name, domain, and network settings* (See configuration setup, e.g. p. 7).

As per claim 14: TechNet further discloses *wherein client state data can comprise Site association or code, client GUID, and an associated distribution point* (See p.21).

As per claim 15: TechNet further discloses *wherein user state data can comprise a user profile* (See p.13).

As per claim 16: TechNet further discloses *wherein user data can comprise folders and files desired for migration and network share settings* (See p.1, data in the Wizard).

As per claim 19: With regard to this limitation: *wherein the wipe and load phase comprises enabling a target computer to connect with at least one of a number of destination points from which an image file containing the new operating system image is obtained.*,

TechNet does not shows clearly wipe and load phase. The combination is done with Computing.Net, which is Window ME (old) for Windows 98 (new) install in a directory of C.

As per claims 59, 61: See rationale addressed in the rejection of claims 11 and 19 respectively.

5. Claims 25-29, 42-46, 50, 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over TechNet, "Remote Operating System Installation", 1999, in view of Computing.net, "Installing a New Operating System", 2002, and further in view of Pawlak, "Software Update Service to Ease Patch Distribution", DirectiononMicrosoft.com.

As per claim 25: Regarding limitation,

A method for in-place imaging of a target computer with a new operating system comprising:

notifying the target computer user that the new operating system is desired to be deployed on the target computer;

providing the user with an option to postpone operating deployment on the target computer;

capturing data or state for migration to the new operating system and storing the data or state at a remote network location;

first installing a pre-installation environment on the target computer that is desired to be imaged with a new operating system, the pre-installation environment comprising a subset of an operating system, wherein the act of installing the pre-installation environment comprises installing the pre-installation environment in a same disk partition as an old operating system; in response to the capturing and first installing, generating a first status report by and old client associated with the old operating system;

re-booting the target computer, wherein rebooting the target computer activates the pre-installation environment on the target computer;

deleting an old operating system from within the pre-installation environment;

second installing the new operating system from within the pre-installation environment, wherein the new operating system is deployed in the same disk partition as the old operating system, whereby non-operating system data on the disk is preserved;

re-booting the target computer in the new operating system;

migrating the data or state stored in network location to the new operating system; and

in response to the deleting, second to the deleting, and migrating, generating a second status report by a new client associated with the new operating system,

wherein the new operating system and pre-installation environment are deployed at a same time to the target computer as components of an image deployment package.

See the rationale address in Claim 1 above.

Neither TechNet nor Computing.net discloses *notifying a target computer user that a new operating system image is desired to be deployed on the target computer and providing the user with an option to postpone image deployment on the target computer.*

Pawlak, in an analogous art, using a server side process to implement a scheduler on a target computer for *notifying a target computer user that a new operating system image is desired to be deployed on the target computer* (e.g. see p.3-4, "Automatic Update Client": it teaches SUS client is notified to get applicable packages); *and providing the user with an option to postpone image deployment on the target computer* (See p. 3, last paragraph. See A1-3, the options, and descriptions within check boxes. Also see A1-A2).

Therefore, it would be obvious to an ordinary in the art to include an option as in the manner of Pawlak into the setup installer of TechNet or Computing.net to allow a client or a user of a target computer having an option; thus, it would be good for the user with a decision or choices.

As per claim 26: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to disallow operating system deployment on the target computer* (See A1-A2, for example unchecked).

As per claim 27: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to immediately begin an operating system deployment process on the target computer* (See A1-A2, for example approve, or the act of downloading by a user in A1).

As per claim 28: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25 further comprising providing the user with an option to disallow operating system deployment process on the target computer, and an option to immediately begin an operating system deployment process on the target computer* (See A1-A3).

As per claim 29: Incorporated with the rejection of claim 25, Pawlak further discloses, *The method of claim 25, wherein the act of providing comprises allowing the user to specify a postponement duration* (See A2-A3, 'set options').

As per Claims 42-46: The rejection of the claims has the same reasons as addressed in the rationale in the rejection of claims 25-29.

As per Claims 50, 52-55: The rejection of the claims has the same reasons as addressed in the rationale in the rejection of claims 25-29.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Art Unit: 2191

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV

October 18, 2009

/Ted T. Vo/

Primary Examiner, Art Unit 21